IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3873 OF 2006

M/s. Bhor Industries Limited ..Petitioner

Vs.

Mr. D.D. Parab and ors. ..Respondents

Mrs. N.R. Patankar with Mr. V.P. Sawant for petitioner.

CORAM: B.H. MARLAPALLE, J.

Date : August 7, 2006.

P.C.:

1. Heard the learned counsel for the petitioner-company. In Reference (IDA) No.296/02 and Reference (IDA) No.297/02 the petitioner-company filed two separate applications marked as Exhibit "C-2" and prayed for framing the preliminary issue regarding the maintainability of the reference, on various grounds. The learned Judge of the Labour Court has rejected the said applications by relying upon the law laid down in the case of D.P. Maheshwari Vs. Delhi Administration and ors. (AIR 1984 SC 153).

2. The learned Judge of the Labour Court quoted

the following observations made by the Apex Court in Maheshwari's case (Supra):-

> "Tribunals entrusted with the task of adjudicating labour disputes where delay may lead to misery and jeopardise industrial peace, should decide all issues in disputes at the same time without trying some of them as preliminary."

. By following the law laid down by the Apex Court, it was necessary for the Labour Court to frame the preliminary issue as raised by the petitioner and decide the same as such along with all other issues after the parties adduced evidence. Rejecting the application filed at Exh."C-2" was not in keeping with law laid down by the Supreme Court and as relied upon by the Labour Court.

3. Hence, the petition is disposed off with a clarification that the learned Judge of the Labour Court shall frame and decide the preliminary issue

along with all other issues after the parties adduce oral and documentary evidence and the applications filed at Exh. "C-2" will, therefore, accordingly stand restored to the file of the Labour Court.

(B.H. Marlapalle,J.)